

**FIFTY-SECOND LEGISLATIVE DAY  
WEDNESDAY, MARCH 3, 2004**

House of Representatives

The House convened at 10 a.m., the Speaker in the Chair.

Roll call showed 69 members present.  
Absent and excused -- Moyle. Total -- 1.  
Total -- 70.

Prayer was offered by Chaplain Jim Hardenbrook.

The Pledge of Allegiance was led by Cassie Beck, Page.

**Approval of Journal**

March 3, 2004

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have read and approved the House Journal of the Fifty-first Legislative Day and recommend that same be adopted as corrected.

FIELD(18), Chairman

Mrs. Field(18) moved that the report be adopted. Seconded by Mrs. Boe. Report adopted.

**Consideration of Messages from the  
Governor and the Senate**

March 2, 2004

Mr. Speaker:

I transmit herewith enrolled **S 1207, S 1208, S 1209, and S 1226** for the signature of the Speaker.

WOOD, Secretary

The Speaker announced he was about to sign enrolled **S 1207, S 1208, S 1209, and S 1226** and, when so signed, ordered them returned to the Senate.

March 2, 2004

Mr. Speaker:

I transmit herewith **S 1371, S 1260, S 1320, S 1404, S 1405, and S 1382** which have passed the Senate.

WOOD, Secretary

**S 1371, S 1260, S 1320, S 1404, S 1405, and S 1382** were filed for first reading.

March 2, 2004

Mr. Speaker:

I return herewith **H 715, H 718, H 721, H 722, H 723, H 732, H 733, H 734, H 735, H 736, H 737, H 477, H 478, H 479, and H 481** which have passed the Senate.

WOOD, Secretary

**H 715, H 718, H 721, H 722, H 723, H 732, H 733, H 734, H 735, H 736, H 737, H 477, H 478, H 479, and H 481** were

referred to the Judiciary, Rules, and Administration Committee for enrolling.

March 2, 2004

Mr. Speaker:

I return herewith **H 500**, as amended in the Senate, which has passed the Senate.

WOOD, Secretary

**H 500**, as amended in the Senate, was ordered held at the Desk.

Mr. Black asked unanimous consent that the House concur in the Senate amendments to **H 500**, as amended in the Senate. There being no objection, it was so ordered.

**H 500**, as amended in the Senate, was referred to the Judiciary, Rules, and Administration Committee for engrossing.

**Report of Standing Committees**

March 3, 2004

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION report that we have printed **H 799, H 800, H 801, H 802, H 803, and H 804**.

FIELD(18), Chairman

**H 799 and H 800** were referred to the Revenue and Taxation Committee.

**H 803** was referred to the Business Committee.

**H 804** was referred to the Education Committee.

**H 801 and H 802** were filed for second reading.

March 3, 2004

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have enrolled **HCR 43**.

FIELD(18), Chairman

The Speaker announced he was about to sign enrolled **HCR 43**, and, when so signed, ordered it transmitted to the Senate for the signature of the President.

March 1, 2004

Mr. Speaker:

We, your COMMITTEE ON BUSINESS, report that we have had under consideration **H 756, H 757, and H 773** and recommend that they do pass.

BLACK, Chairman

**H 756, H 757, and H 773** were filed for second reading.

March 2, 2004

Mr. Speaker:

We, your COMMITTEE ON TRANSPORTATION AND

DEFENSE, report that we have had under consideration **S 1267**, **S 1268**, and **S 1266** and recommend that they do pass.

WOOD, Chairman

**S 1267**, **S 1268**, and **S 1266** were filed for second reading.

March 2, 2004

Mr. Speaker:

We, your COMMITTEE ON TRANSPORTATION AND DEFENSE, report that we have had under consideration **H 752** and report it back with amendments attached to be placed on General Orders for consideration.

WOOD, Chairman

**H 752** was placed on General Orders for consideration.

March 2, 2004

Mr. Speaker:

We, your COMMITTEE ON ENVIRONMENTAL AFFAIRS, report that we have had under consideration **S 1279**, as amended, and recommend that it do pass.

RAYBOULD, Chairman

**S 1279**, as amended, was filed for second reading.

March 2, 2004

Mr. Speaker:

We, your COMMITTEE ON HEALTH AND WELFARE, report that we have had under consideration **H 731**, **H 646**, and **SCR 120** and recommend that they do pass.

SALI, Chairman

**H 731** and **H 646** were filed for second reading.

**SCR 120** was returned to the Third Reading Calendar.

March 2, 2004

Mr. Speaker:

We, your COMMITTEE ON AGRICULTURAL AFFAIRS, report that we have had under consideration **H 741** and **H 776** and recommend that they do pass.

JONES, Chairman

**H 741** and **H 776** were filed for second reading.

March 3, 2004

Mr. Speaker:

We, your COMMITTEE ON STATE AFFAIRS, report that we have had under consideration **H 777** and recommend that it do pass.

DEAL, Chairman

**H 777** was filed for second reading.

There being no objection, the House advanced to the Eighth Order of Business.

#### Introduction, First Reading, and Reference of Bills and Joint Resolutions

Mr. Raybould asked unanimous consent that **S 1279**, as amended, be placed on General Orders for consideration. There being no objection, it was so ordered.

#### HOUSE BILL NO. 805

#### BY APPROPRIATIONS COMMITTEE

#### AN ACT

RELATING TO APPROPRIATIONS; APPROPRIATING ADDITIONAL MONEYS FOR FISCAL YEAR 2005 TO STATE AGENCIES AND INSTITUTIONS FOR A TEMPORARY SALARY INCREASE FOR STATE EMPLOYEES, CONTINGENT UPON THE ENDING BALANCE OF THE GENERAL FUND.

**H 805** was introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

**S 1371** and **S 1260**, by Judiciary and Rules Committee, were introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee.

**S 1320**, by Health and Welfare Committee, was introduced, read the first time by title, and referred to the Health and Welfare Committee.

**S 1382**, by Judiciary and Rules Committee, was introduced, read the first time by title, and referred to the Business Committee.

**S 1404** and **S 1405**, by Finance Committee, were introduced, read the first time by title, and filed for second reading.

There being no objection, the House advanced to the Tenth Order of Business.

#### Second Reading of Bills and Joint Resolutions

**HCR 54** and **HJM 22**, by Education Committee, were read the second time by title and filed for third reading.

**H 789**, **H 790**, **H 791**, **H 792**, **H 793**, **H 794**, and **H 795**, by Appropriations Committee, were read the second time by title and filed for third reading.

**H 738**, by Revenue and Taxation Committee, was read the second time by title and filed for third reading.

**H 745**, by Ways and Means Committee, was read the second time by title and filed for third reading.

**S 1295** and **S 1296**, by Resources and Environment Committee, were read the second time by title and filed for third reading.

**S 1244**, **S 1245**, **S 1246**, **S 1248**, **S 1249**, **S 1250**, and **S 1251**, by Judiciary and Rules Committee, were read the second time by title and filed for third reading.

**HJM 21** and **H 778**, by State Affairs Committee, were read the second time by title and filed for third reading.

**S 1306**, by State Affairs Committee, was read the second time by title and filed for third reading.

**S 1385, S 1386, S 1387, S 1396, S 1397, S 1398, S 1399, S 1400, S 1401, S 1402, and S 1403**, by Finance Committee, were read the second time by title and filed for third reading.

### Third Reading of Bills and Joint Resolutions

Mr. Denney asked unanimous consent that **H 655** retain its place on the Third Reading Calendar for one Legislative Day. There being no objection, it was so ordered.

**H 740** was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mrs. Boe to open debate.

The question being, "Shall **H 740** pass?"

Roll call resulted as follows:

AYES -- Andersen, Block, Boe, Bradford, Cannon, Cuddy, Douglas, Edmunson, Henbest, Jaquet, Jones, Langhorst, Martinez, Miller, Mitchell, Naccarato, Pasley-Stuart, Ridinger, Ringo, Robison, Sayler, Shepherd, Shirley, Smith(30), Smylie, Trail(Bennett). Total -- 26.

NAYS -- Barraclough, Barrett, Bauer, Bayer, Bedke, Bell, Black, Bolz, Campbell, Clark, Collins, Crow, Deal, Denney, Eberle, Ellsworth, Eskridge, Field(18), Field(23), Gagner, Garrett, Harwood, Kellogg, Kulczyk, Lake, Langford, McGeachin, McKague, Meyer, Moyle, Nielsen, Raybould, Ring, Roberts, Rydalch, Sali, Schaefer, Skippen, Smith(24), Snodgrass, Stevenson, Wills, Wood, Mr. Speaker. Total -- 44.

Paired Votes:

AYE -- Edmunson. NAY -- Moyle.

AYE -- Henbest. NAY -- Langford.

(Pairs enumerated in roll call above.)

Total -- 70.

Whereupon the Speaker declared **H 740** failed to pass the House and ordered the bill filed in the Office of the Chief Clerk.

Mr. Denney moved that the House recess until 1:30 p.m. Seconded by Ms. Jaquet. Motion carried.

Whereupon the Speaker declared the House at recess until 1:30 p.m.

### RECESS

### Afternoon Session

The House reconvened at 1:30 p.m., the Speaker in the Chair.

Roll call showed 69 members present.

Absent and excused -- Moyle. Total -- 1.

Total -- 70.

Prior to recess, the House was at the Eleventh Order of Business.

### Third Reading of Bills and Joint Resolutions

**H 768** was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Meyer to open debate.

The question being, "Shall **H 768** pass?"

Roll call resulted as follows:

AYES -- Barraclough, Barrett, Bauer, Bayer, Bedke, Bell, Block, Bolz, Bradford, Campbell, Cannon, Collins, Crow, Deal, Denney, Eberle, Ellsworth, Eskridge, Field(23), Harwood, Kulczyk, Lake, Langford, McGeachin, McKague, Meyer, Moyle, Nielsen, Raybould, Ring, Roberts, Rydalch, Schaefer, Skippen, Stevenson, Wills, Wood, Mr. Speaker. Total -- 38.

NAYS -- Andersen, Black, Boe, Clark, Cuddy, Douglas, Edmunson, Field(18), Gagner, Garrett, Henbest, Jaquet, Jones, Kellogg, Langhorst, Martinez, Miller, Mitchell, Naccarato, Pasley-Stuart, Ridinger, Ringo, Robison, Sali, Sayler, Shirley, Smith(30), Smith(24), Smylie, Snodgrass, Trail(Bennett). Total -- 31.

Absent and excused -- Shepherd. Total -- 1.

Paired Votes:

AYE -- Moyle. NAY -- Henbest.

AYE -- Roberts. NAY -- Jaquet.

(Pairs enumerated in roll call above.)

Total -- 70.

Whereupon the Speaker declared **H 768** passed the House. Title was approved and the bill was ordered transmitted to the Senate.

Mr. Denney asked unanimous consent that the remaining bills on the Third Reading Calendar retain their places for one Legislative Day. There being no objection, it was so ordered.

There being no objection, the House returned to the Eighth Order of Business.

### Introduction, First Reading, and Reference of Bills and Joint Resolutions

### HOUSE BILL NO. 806 BY WAYS AND MEANS COMMITTEE AN ACT

RELATING TO ANIMAL DISEASE CONTROL; AMENDING CHAPTER 2, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-207B, IDAHO CODE, TO AUTHORIZE THE DIVISION OF ANIMAL INDUSTRIES TO PROMULGATE RULES FOR THE

IDENTIFICATION OF LIVESTOCK, POULTRY OR FISH AND FOR THE REGISTRATION OF PREMISES WHERE LIVESTOCK, POULTRY OR FISH ARE HELD AND TO PROVIDE THAT CERTAIN DATA AND INFORMATION COLLECTED BY THE DIVISION OF ANIMAL INDUSTRIES OR THE STATE BRAND BOARD SHALL NOT BE CONSIDERED A PUBLIC RECORD AND SHALL BE EXEMPT FROM PUBLIC DISCLOSURE; AND AMENDING SECTION 9-340D, IDAHO CODE, TO PROVIDE THAT ALL DATA AND INFORMATION COLLECTED BY THE DIVISION OF ANIMAL INDUSTRIES OR THE STATE BRAND BOARD PURSUANT TO CERTAIN PROVISIONS OF LAW AND RULES SHALL BE EXEMPT FROM PUBLIC DISCLOSURE.

**HOUSE BILL NO. 807**  
**BY WAYS AND MEANS COMMITTEE**  
 AN ACT

RELATING TO THE IDAHO BEEF COUNCIL; AMENDING SECTION 25-2901, IDAHO CODE, TO DECREASE THE SIZE OF THE COUNCIL, PROVIDE AN EX OFFICIO MEMBER AND SPECIFY MEMBERSHIP QUALIFICATIONS; AMENDING SECTION 25-2903, IDAHO CODE, TO PROVIDE TERM LIMITS FOR MEMBERS OF THE COUNCIL; AMENDING SECTION 25-2906, IDAHO CODE, TO PROVIDE ADDITIONAL POWERS AND DUTIES OF THE COUNCIL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 25-2907, IDAHO CODE, TO INCREASE THE ASSESSMENT UNDER TERMS SPECIFIED AND TO PROVIDE A REFUND UPON REQUEST; AND AMENDING CHAPTER 29, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2913, IDAHO CODE, TO PROVIDE FOR SEVERABILITY.

**H 806** and **H 807** were introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

There being no objection, the House returned to the Seventh Order of Business.

**Motions, Memorials, and Resolutions**

**HOUSE CONCURRENT RESOLUTION NO. 55**  
**BY WAYS AND MEANS COMMITTEE**  
 A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF HEALTH AND WELFARE RELATING TO LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITIES.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Department of Health and Welfare relating to

licensed residential and assisted living facilities are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 16.03.22, rules of the Department of Health and Welfare governing licensed residential and assisted living facilities, section 428, subsection 01, concerning Medication Policy, and subsection 02, concerning Medication Distribution System, adopted as pending rules under Docket Number 16-0322-0301, be, and the same are hereby rejected and declared null, void and of no force and effect.

**HOUSE JOINT MEMORIAL NO. 23**  
**BY WAYS AND MEANS COMMITTEE**  
 A JOINT MEMORIAL

TO THE GOVERNOR OF THE STATE OF IDAHO, THE ATTORNEY GENERAL OF THE STATE OF IDAHO, THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES, THE DIRECTOR OF THE IDAHO DEPARTMENT OF FISH AND GAME, THE OFFICE OF SPECIES CONSERVATION FOR THE STATE OF IDAHO, THE COUNCIL MEMBERS REPRESENTING THE STATE OF IDAHO ON THE NORTHWEST POWER AND CONSERVATION COUNCIL, THE COMMISSIONER OF THE BUREAU OF RECLAMATION, NOAA FISHERIES, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, on January 16, 2004, several conservation and fishing groups filed a complaint in the federal district court in Oregon in the case of American Rivers v. NOAA Fisheries, Civ. No. 04-CV-0061-BR, alleging that the biological opinions issued by NOAA Fisheries in 2001 and 2002 regarding operation of the Bureau of Reclamation projects in the Upper Snake River Basin are arbitrary and capricious, and otherwise contrary to law, and should be set aside by the court; and

WHEREAS, the complaint also alleges that the current federal program of sending up to 427,000 acre-feet of water downstream for flow augmentation, under a willing-seller program that must comply with state law, is insufficient for the needs of the listed species; and

WHEREAS, the complaint contends that sufficient water needs to be sent downstream from the Upper Snake River projects to meet arbitrary and unrealistic flow targets that have been established downstream by NOAA Fisheries; and

WHEREAS, providing water downstream to meet the flow targets would require sending millions of acre-feet of water out of Idaho, thereby devastating its agricultural economy and significantly affecting supplies for municipalities, recreation, resident fisheries, ground water recharge and spring flows; and

WHEREAS, Idaho has been in the midst of a severe drought over the past several years; and

WHEREAS, the downstream flow targets are not hard constraints, as previously determined by the federal district court in Oregon and by NOAA Fisheries; and

WHEREAS, flow augmentation using water from the Upper Snake River projects has been demonstrated to be a failed experiment by virtue of the fact that it does not increase travel time or provide temperature benefits for the listed species; and

WHEREAS, the Idaho State Legislature has made plain its intent, in Section 42-1763B, Idaho Code, to repeal the temporary legislative authorization for the Bureau to release storage water for flow augmentation in the event that the 2002 biological opinion is set aside by a court; and

WHEREAS, the conservation and fishing groups have made clear that their primary motivation for filing the complaint includes placing pressure upon the state of Idaho, water users, and other citizens of the state to support removal or breaching of the four federal dams on the Lower Snake River.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Legislature opposes efforts to release large amounts of storage water for flow augmentation, contrary to the laws of the state of Idaho, and also opposes removal or breaching of the four Lower Snake River dams.

BE IT FURTHER RESOLVED that the Idaho State Legislature supports the efforts of the state of Idaho, by and through the offices of the Governor and the Attorney General, to intervene in the current legal proceedings to protect the sovereignty of Idaho's water.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the Governor of the State of Idaho, the Attorney General of the State of Idaho, the Director of the Idaho Department of Water Resources, the Director of the Idaho Department of Fish and Game, the Office of Species Conservation for the State of Idaho, the council members representing the state of Idaho on the Northwest Power and Conservation Council, the Commissioner of the Bureau of Reclamation, NOAA Fisheries, and the congressional delegation representing the State of Idaho in the Congress of the United States.

**HOUSE JOINT MEMORIAL NO. 24  
BY WAYS AND MEANS COMMITTEE  
A JOINT MEMORIAL**

TO THE SECRETARY OF THE UNITED STATES DEPARTMENT OF THE INTERIOR, THE COMMISSIONER OF THE BUREAU OF RECLAMATION, THE UNITED STATES ARMY CORPS OF ENGINEERS, THE GOVERNOR OF THE STATE OF IDAHO, THE MEMBERS OF THE IDAHO WATER RESOURCE BOARD, the director of THE IDAHO DEPARTMENT OF WATER RESOURCES, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby

respectfully represent that:

WHEREAS, the Secretary of the United States Department of the Interior's "Water 2025" Initiative has appropriately recognized the need to identify solutions for water supply problems at the state and local level, in order to avoid conflicts like those that have occurred in the Klamath Basin and the Rio Grande Basin in recent years; and

WHEREAS, Idaho is an arid state and is in the midst of a prolonged drought; and

WHEREAS, Idaho is a rapidly growing state, with emerging water supply needs for municipalities, urban development, industries and commercial enterprises, as well as continued agricultural demands; and

WHEREAS, additional water supplies are desired to help address conjunctive administration issues involving the legal and hydrologic relationship between surface and ground water needs; and

WHEREAS, listings of fish and other aquatic species under the Endangered Species Act, lawsuits, and other demands for water continue to perplex our state.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we support the identification and development of additional water supply enhancement projects including, but not limited to, on-stream and off-stream storage, increased capacity at existing storage facilities, ground water storage, recharge of aquifer supplies and pressurized irrigation systems.

BE IT FURTHER RESOLVED that we encourage the Bureau of Reclamation, the United States Army Corps of Engineers, the Idaho Water Resource Board, the Idaho Department of Water Resources, and other federal and state agencies to cooperate with the citizens of the state of Idaho in identifying and developing such water supply projects as are necessary to address the growing needs and demands of the state.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the Secretary of the United States Department of the Interior, the Commissioner of the Bureau of Reclamation, the United States Army Corps of Engineers, the Governor of the State of Idaho, the members of the Idaho Water Resource Board, the director of the Idaho Department of Water Resources, and the congressional delegation representing the State of Idaho in the Congress of the United States.

**HCR 55, HJM 23, and HJM 24** were introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

There being no objection, the House advanced to the Sixteenth Order of Business.

**Adjournment**

Mr. Denney moved that the House adjourn until 10 a.m., Thursday, March 4, 2004. Seconded by Ms. Boe. Motion

carried.

Whereupon the Speaker declared the House adjourned at  
3:12 p.m.

BRUCE NEWCOMB, Speaker

ATTEST:

PAMM JUKER, Chief Clerk